CITY OF
BLOOMINGTON
MINNESOTA

July 1, 2014

William Griffith
Larkin, Hoffman, Daly & Lindgren, Ltd.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Minneapolis, MN 55431

Re: Notice of Future Mortgage Financing for MOAC Mall Holdings LLC

Dear Mr. Griffith:

Staff has been meeting to discuss the City's significant concerns about the Mall of America's ("MOA") refinancing. This letter is to inform you and your client of the issues and objectives identified by City staff relating to the MOA's proposed $1.4 billion refinancing of the existing $755 million mortgage two years ahead of schedule. These issues and objectives reflect the City and Port Authority's long term interests in the MOA Project developed as a result of their financial and political investment in this project over the years.

This letter is also to acknowledge receipt of your letter dated June 26, 2014.

Preliminarily, I disagree with your interpretation of the interplay between Sections 6.7 and 3.6 of the Master Redevelopment Contract. Notice with no ability to review the details of the proposed transaction and an adequate opportunity to analyze its impact on both the current and future financing of Subsequent Phases is utterly meaningless. While the reversionary interest of the City and Port Authority was extinguished by the IKEA development, the City and Port Authority continue to invest both public money and their political credibility into the MOA development. Staff is unlikely to recommend approval of a waiver of the 60-day notice requirements without having had the ability to analyze the proposed mortgage documents as set forth in my June 24th letter to you. Without the waiver, MOA would be in breach of the contract thereby jeopardizing any future public financing in the MOA Project. In any event, Section 3.6 will require that the City be in receipt of all these documents as a prerequisite to any further public investment beyond the current Phase 1C commitment.

<u>Introduction</u>
The City is not simply the governing authority for the MOA Project and properties, but with the Port Authority, the City of Bloomington is a significant investor in the MOA. As such, it is important to remember the City's vision from the outset and that the MOA Project was a joint undertaking.

Following the decision by the State to provide a new venue for the Minnesota Twins and Vikings in downtown Minneapolis, the City commissioned a study by a panel of Urban Land Institute members in 1979 to describe the site's potential. Ultimately, the City, through its Port Authority, purchased the Metropolitan Stadium property and provided both the soil and a significant number of the seeds used to grow the MOA.[1] Many experts warned both the City and Triple Five that the development would be a big 'White Elephant'. The City and the Port Authority took an enormous risk. Hence, choosing a qualified developer for this prime real estate was crucial. The developer had to share the City's vision for an exciting, international mixed use destination and the imagination to make it work.[2] While Triple Five brought a vibrant vision for the site's potential, they were not able to provide the financial wherewithal and development team to manage and maintain the dream. To finance the construction of the MOA, Triple Five added the Simon Property Group.[3] After a 2005 decision by the Eighth Circuit Court of Appeals, Triple Five acquired the control and ownership of the MOA.[4]

Originally, the MOA had no mortgage burdening its operating results. In 1999, the Simon Property Group and TIAA, acting through MOAC, placed a $312 million mortgage on the MOA, as part of their planned buy-out of TIAA's interest. This buy-out triggered the lawsuit that resulted in the federal court ruling allowing Triple Five to acquire all of the ownership interest and control of the MOA. To accomplish that in 2006, Triple Five refinanced the MOA property by placing the existing $755 million mortgage on the MOA I property. And, in 2009, Triple Five placed a $100 million mortgage[5] on the Met Center site to serve as collateral for Triple Five's failing Las Vegas investments[6]. The City and Port Authority learned of each of these encumbrances substantially after they had been completed. These financing events caused the City and Port Authority considerable concern about Triple Five's ability to move forward with the next phases of the MOA to fulfill the original vision. Equally troubling was Triple Five's leveraging of these assets, into which the City and Port Authority had made very significant

[1] In 1985 the Authority paid $2,147,000 to extinguish William Cooley and Arthur Petrie's prior claim to the Project Property and paid the Sports Facilities Commission $14.5 million for the 99.3 acre site. The Authority issued $51.5 million in tax increment revenue bonds to finance the land acquisition and on-site improvements and the City issued $45 million in general obligation bonds to fund land acquisition and highway improvements. The 40 acre expansion parcel east of the Stadium site was acquired by the Authority in 1986.

[2] In 1979 the City consulted with the Urban Land Institute ("ULI") to evaluate the development potential of the Project Property and based upon the report of the ULI panel study, the City sought a developer capable of creating a large scale, mixed use development with an international orientation.

[3] In 1988, Melvin Simon & Associates joined with Triple Five to form the Mall of America Company. Teachers Insurance and Annuity Association of America ("TIAA") provided $650 million in construction financing, retaining an equity interest in the MOA. As of 1992, the Simons (d/b/a "Si-Minn") and Triple Five had formed Mall of America Associates ("MOAA"), a general partnership with each of them owning 50% and MOAA and TIAA formed the Mall of America Company (MOAC) a limited partnership owned 45% by MOAA and 55% by TIAA.

[4] 404 F.3d 1088 (April 21, 2005).

[5] May 1, 2009, Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement between MOAC Land Holdings, LLC and Wells Fargo Bank National Association, Loan No. 105076.

[6] In 2004, Triple Five purchased 60 acres of land in Las Vegas to build the Great Mall of Las Vegas for $42.5 million. It surrendered the site to its key lender, Key Bank, in 2009. The site was sold in December 2010 for $6.3 million. (New York Times, *Bringing the Mall of America Magic to New Jersey,* Terry Pristin, May 10, 2011.) Prior to surrendering the site to the bank, Triple Five placed a $100 million mortgage on the Met Center Site in May 2009 to supplement the collateral for the mortgage on the Las Vegas property. Triple Five also defaulted on the non-recourse loan of $59.7 million for the Village Square at Peccole Ranch in Nevada in 2009.

investments, for projects removed from the MOA vision, such as the Las Vegas venture. To address these continuing concerns, the City and Port Authority negotiated both Sections 3.6 and 6.7 into the Master Redevelopment Contract.

When the City learned of the 2014 proposed refinancing just a day or two ahead of it being reported in the Business Journal, City staff found it to be very troubling and disappointing. This letter is to encourage Triple Five to work with the City and Port Authority so that the proposed refinancing does not continue to contribute to the issues that have arisen from the past refinancings and the development impasse that followed. The proposed refinancing may potentially impact future negotiations for public investment in MOA beyond the current Redevelopment Agreement for Phase 1C.

Issues and Objectives:

1. City/Port Authority Data Request. The following information about the refinancing requested in my initial e-mails on June 17, 2014, and the follow-up letter dated June 24, 2014, must be provided:
   (a) The loan to value ratio for the entire Project Property under the proposed mortgage;
   (b) The appraisal in support of the proposed $1.4 billion mortgage on the Metropolitan Stadium site;
   (c) Specific identification of what is pledged as collateral for the loan;
   (d) Specific identification of any cross-collateralization between the Phase 1C debt for the new mortgage;
   (e) Specific identification of the manner in which Phase 1C operations or rents are being factored into the appraisal in support of the mortgage;
   (f) The operating pro forma in support of the currently appraised value;
   (g) The defeasance costs under the proposed mortgage;
   (h) The projected closing date on the mortgage;
   (i) The use of the proceeds of the refinancing, including the portion that will be reinvested in the Project Property;
   (j) The impact and relationship of this refinancing on the Phase 1C debt, including the proposed financing for the Phase 1C office; and
   (k) The Developer's proposed financing for future replacement and major maintenance on infrastructure on the Project Property.

2. Analysis of Loan to Value Ratio. If the ratio of the actual market value of MOA I relative to the proposed $1.4 billion mortgage is too low, this property could find its value below the amount of the mortgage, let alone the committed loan-to-value ratio. It is essential that City staff be able to analyze this, and the other financial information requested on June 24th, before the City and Port Authority approves a waiver of the 60 day notice requirement in the Master Redevelopment Contract or subsequently invests additional public funds in the Project beyond what is it currently obligated to do. This is particularly true as the retail market continues to evolve in light of online sales.
   Objective: Provide City and Port Authority staff timely access to requested documents that allows them sufficient time to analyze the impacts and allows the City Council and

Port Authority sufficient time to comment on this refinancing prior to its closing. While it is implied in the MOA's waiver request that an opportunity for low interest rates will be lost if a loan is not executed prior to August, that claim is not substantiated and, given the current market's relatively longer term stability, it appears likely that the more active bond markets in September or October may yield interest rate results that are equivalent to July rates with potentially lower defeasance costs.

3. Debt Service Burden. The original Mall of America financing did not include a mortgage and therefore did not encumber initial operational revenues for debt service. To now burden MOA operations with a debt service that goes well beyond that needed to refinance the current mortgages, creates an unnecessary burden on the MOA operational performance if the loan proceeds are diverted from the finances of the MOA. Even to the extent that the loan proceeds do remain within the MOA portfolio, servicing of such debt in an economic downturn could have a negative impact on the ability of MOA to continue to reinvest in the revitalization of its retail and entertainment experience, which is undoubtedly necessary to maintain its competitive edge.

4. Property Taxes. This proposed refinancing has the likely effect of dramatically raising the appraised market value of the MOA, and correspondingly its property taxes. Those taxes are, as we have been told by MOA in-house attorney Kathleen Allen, passed through to tenants and become part of their total costs of occupancy under a triple net lease (rent *plus* building insurance, common area maintenance and real property taxes). If taxes increase, it is predictable that the tenants' total costs of occupancy will also increase and this may negatively impact the net operating income, which is a key component in determining value. Thus the mortgage may result in an unintended consequence of reducing the generally perceived and measured profitability of the property and the market rent tenants are willing to pay to be at MOA. Objective: Analyze potential impact of increased taxes on measures of MOA profitability, which in turn may have a negative impact on securing tenants and the ability of MOA to reinvest in the revitalization of the MOA.

5. Loan Proceeds Become Unavailable for Future Investment in the Project.
It has been reported, quoting Triple Five spokesperson Alan Marcus, that to develop the New Jersey American Dream project, Triple Five gets no public money up front and has access to the $390 million grant only if and when the project is completed and then only via a portion of the tax revenues refunded over time[7]. The City is concerned that over-leveraging the MOA for a very high risk, out of state project, amounts to the City sharing in that risk with no return, such as jobs, increase to the tax base, or spin-off development, for Bloomington taxpayers. This concern is likely to be shared by other members of the Metropolitan Fiscal Disparities Pool and their legislators. It can be mitigated, however, by the MOA reinvesting very significant amounts of the loan proceeds into the MOA Project as set forth in the following objectives. Use of the proceeds for the New Jersey project is far from the initial intent behind the City and Port Authority's investment in the

[7] NorthJersey.com, *American Dream Developers Unveil Long-awaited Makeover, Target 2016 Opening,* John Brennan, April 28, 2014.

MOA. These objectives listed below are consistent with our many discussions with you and your client about MOA investments following the anticipated 2016 refinancing.
Objectives:
(a) Eliminate the Met Center (Phase II site) mortgage by which that property serves as collateral for other projects;
(b) Purchase the Adjoining Lands;
(c) Minimize the debt burden on MOA operations and tenants;
(d) Maintain the synergy within the Project resulting from continual private development of the Phase II site by investing a greater percentage of private equity;
(e) Continue to reinvest in the improvement of the existing MOA properties;
(f) Demonstrate that MOA has available funding to repair and replace existing infrastructure, understanding that the City will not invest taxpayer money in private infrastructure replacement (*e.g.*, the existing east and west parking ramps that are now 22 years old);
(g) Invest on parking traffic flow and exiting improvements; and
(h) Continue to increase the regional tax base.

Conclusion

The City and Port Authority desire to continue to build great things together in Bloomington. Addressing these concerns may go a long way to help rebuild the trust that could easily be lost by any significant use of this $1.4 billion refinancing for purposes outside of the Mall of America and the City of Bloomington.

Regards,

Sandra H. Johnson
City Attorney

cc: Mayor and City Council Members
Port Authority President and Port Authority Board Members
Mark E. Bernhardson, City Manager
Larry Lee, Director of Community Development
Schane Rudlang, Port Authority Administrator
Julie Eddington, Port Authority General Counsel